

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KENYON D. BROWN,

Petitioner,

v.

NORTH KERN STATE PRISON WARDEN,

Respondent.

Case No. 1:20-cv-01043-NONE-EPG-HC

ORDER DENYING AS MOOT MOTION TO
PROCEED *IN FORMA PAUPERIS*

(ECF No. 12)

Petitioner is a state prisoner who proceeded *pro se* with a § 2254 petition for writ of habeas corpus. On October 7, 2020, the Court dismissed the petition for writ of habeas corpus. (ECF No. 12). On October 19, 2020, the Court received Petitioner's the instant motion to proceed *in forma pauperis*. (ECF No. 14). In light of the procedural posture of this case, the Court construes the motion as a motion to proceed *in forma pauperis* on appeal. See Castro v. United States, 540 U.S. 375, 381–82 (2003) (courts may recharacterize a *pro se* motion to “create a better correspondence between the substance of a *pro se* motion's claim and its underlying legal basis”); Bernhardt v. Los Angeles County, 339 F.3d 920, 925 (9th Cir. 2003) (courts have a duty to construe *pro se* pleadings and motions liberally).

A party who is permitted to proceed *in forma pauperis* in the district court may proceed *in forma pauperis* on appeal without further authorization unless the district court certifies that the appeal is not taken in good faith. See Fed. R. App. P. 24(a)(3). Here, Petitioner was

1 previously granted *in forma pauperis* status on July 29, 2020. (ECF No. 2). Therefore, Petitioner
2 is entitled to proceed *in forma pauperis* on appeal, and the motion is DENIED as moot.

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4 IT IS SO ORDERED.

5 Dated: October 20, 2020

6 /s/ Eric P. Grogan
7 UNITED STATES MAGISTRATE JUDGE
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